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SDITC

South Dakota Independent Telephone Coalition, Inc.

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December 14, 1999

Ms. Magalie Roman-Salas
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20024-2101

Re: CC Docket # 96-45
In the Matter of Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas

Dear Ms. Roman-Salas:

Enclosed please find one original and four copies of the Comments of the South Dakota Independent Telephone Coalition, Inc. in reference to CC Docket No. 96-45, in response to Further Proposed Notice of Rulemaking FCC 99-204. In accordance with the instructions in the Notice, electronic disk copies have been sent to Sheryl Todd and to the Commission's copy contractor, International Transcription Service.

Thank you for your assistance.

Sincerely,

Richard D. Coit
Executive Director and
General Counsel

Attachments

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	
Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas	CC Docket No. 96-45

COMMENTS OF SOUTH DAKOTA INDEPENDENT TELEPHONE COALITION, INC.

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December 14, 1999

I. INTRODUCTION

The South Dakota Independent Telephone Coalition, Inc. ("SDITC") submits these comments in response to the Commission's Further Notice of Proposed Rulemaking ("FNPR"), FCC 99-204, released on September 3, 1999. SDITC is an organization representing the interests of numerous independent, cooperative and municipal local exchange carriers in the State of South Dakota (attached as Appendix A hereto is a listing of the current SDITC member local exchange carriers "LECs"). All of the SDITC member LECs are "rural telephone companies" as defined in 47 U.S.C. § 3(37) and all have been designated as eligible telecommunications carriers by the South Dakota Public Utilities Commission within their established rural service areas or "study areas."

A number of the SDITC member LECs are submitting separate comments in this proceeding to provide information regarding the telecommunications facilities they've deployed and services they are providing on tribal lands and to inform the Commission of their general position on these matters. This includes comments filed by the Cheyenne River Sioux Tribe Telephone Authority and comments filed collectively by Golden West Telecommunications Cooperative, Vivian Telephone Company, Mt. Rushmore Telephone Company, Roberts County Telephone Cooperative Association, RC Communications, Inc., Sully Buttes Telephone Cooperative, Inc. and Midstate Telephone Company. SDITC files these comments to give emphasis to the comments filed by its member companies and to comment on specific issues raised in the FNPR relating to the designation of wireless carriers as eligible telecommunications carriers ("ETCs") and, also, the selection of carriers to provide service in "unserved" areas pursuant to the provisions of 47 U.S.C. § 214.

II. IMPACT OF PROPOSALS ON EXISTING ETCS

In first responding to the FNPR, SDITC would urge the Commission to not rely too heavily on generalizations concerning the lack of access to telecommunications facilities and services on

Indian reservation lands. Different circumstances are presented in the various tribal lands across this country and the analysis in this proceeding must take into account these different circumstances. In particular, it should be recognized that the extent to which incumbent LECs have deployed telecommunications facilities and are making telecommunications services available in tribal areas may be very different from company to company. SDITC can attest that South Dakota's rural telephone companies have been no less committed to serving tribal subscribers than serving any of their other customers. SDITC's member LECs have made substantial facility investments on Indian reservation lands and these investments should not be jeopardized through this process which is intended to increase, not reduce, the level of access on tribal lands to both basic and advanced telecommunications services.

The National Telephone Cooperative Association ("NTCA") recently published a white paper that offers information that is very pertinent to this proceeding. This document entitled "Dial-tone is not Enough: Serving Tribal Lands" (November 1999) includes, in part, the following information concerning the level of service provided by certain rural telephone companies in South Dakota on tribal lands:

> - The Cheyenne River Sioux Tribe Telephone Authority ("C.R.S.T.") located in Eagle Butte, South Dakota serves the Cheyenne River Sioux Reservation. The reservation encompasses 2.8 million acres, or about 4,600 square miles in north central South Dakota. C.R.S.T. reports a 75% penetration rate, actively serving approximately 3,000 of 4,000 households, despite a 60% unemployment rate on the reservation. Telephone service is available to 1005 of the Sioux tribal lands served by C.R.S.T. By the end of this year, C.R.S.T. will offer CLASS services; it will have installed 250 miles of fiber optic cable. C.R.S.T. was founded in 1958 and started with assets of $100,000. The telco now has assets exceeding $10 million. In addition to providing telephone and Internet service, C.R.S.T. has subsidiaries offering cable TV and direct broadcast satellite service.
>
> - Golden West Telecommunications Cooperative (Wall, South Dakota) reports an 86% penetration rate on the Pine Ridge Indian Reservation despite a tribal unemployment rates that runs between 73% and 79%. In addition, service is available to virtually 100% of Pine Ridge. Further, more than 85% to 90% of Golden West's infrastructure on the reservation can support xDSL technology and DS3 technology is available in every community. During the past four years, Golden West invested in CLASS, Centrex, ISDN, and signaling system 7 (SS7) features. All this technology is backed up by both an OC12 and an OC-48 SONET Ring.

- Midstate Telephone Company (Kimball, South Dakota) serves approximately 80% of the Crow Creek Indian Reservation in the central part of South Dakota. Midstate serves 275 of the 295 reservation households within its service area, for a telephone penetration rate of 93%. Service, including dial-up Internet access is available to all of the households. Next year, Midstate will begin offering broadband Internet access in the reservation area. The reservation unemployment rate is approximately 8.4%.

- Sully Buttes Telephone Cooperative (Highmore, South Dakota) also serves subscribers on the Crow Creek Indian Reservation. It serves 36 of 42 reservation households for a penetration rate of 86% on tribal lands. Its service is available to all households on the reservation.

The above information demonstrates that the service provided by rural telephone companies to tribal lands in South Dakota rises above the nationwide statistics presented in the Commission's FNPR. It reflects the fact that South Dakota's rural carriers have treated tribal areas no differently than other parts of their service areas. In this State, it is clear that any lower penetration rates existing on tribal lands have not been caused by lack of access to adequate telecommunications facilities. South Dakota's rural telephone companies have the facilities in place to provide universal access in tribal areas to all basic telephone services and have made significant progress in providing access to advanced services in such areas.

SDITC supports the Commission in its efforts to improve telephone service subscribership on Indian reservation lands, but does have some concerns with this proceeding. The purpose of this proceeding, as stated in the FNPR, is to review possible modifications to federal high-cost and low-income support mechanisms that may be necessary to promote facilities deployment and subscribership in "unserved" and "underserved" areas including tribal areas. With this purpose in mind, SDITC believes that any changes to the support mechanisms made as a result of this proceeding should be specifically targeted to those areas that truly are "unserved" or "underserved." Moreover, all proposals should be carefully evaluated to determine how they would actually affect the level of service provided on tribal lands.

In some respects, the FNPR seems more concerned with improving the competitive status of wireless carriers than developing solutions that will actually raise subscribership rates in tribal

areas. It appears that the FNPR favors bringing subsidized competition into tribal areas by pushing for the support of wireless services through multiple ETC designations (regardless of whether the wireless carriers actually meet ETC service requirements as intended by the federal law). In general, regarding such proposals, SDITC would agree with the following statement of the National Tribal Telecommunications Alliance (NTTA):

> Because any given tribal economy likely will not support more than one telecommunications carrier, the selection of a new carrier or a specific technology may have long-lasting effects on the kind and quality of services, to which reservation residents will have access. Tribes, and the [FCC], must be wary of limited "quick fix" solutions developed by the carriers as much or more for obtaining universal service funding as for meeting the full telecommunications needs of tribes . . ..[1]

SDITC opposes the use of this process as a vehicle to expand the Commission's ETC designation powers beyond what is intended under the federal law, with the goal of forcing the designation of more than one ETC in tribal areas. Any actions must be consistent with the provisions found in Section 214(e)(6) of the Federal Communications Act (hereinafter referenced as the "Federal Act"), which grants the Commission authority to designate ETCs only where a state commission lacks jurisdiction over the carrier requesting designation. Also, any actions taken must be consistent with the provisions of 14(e)(2) of the Federal Act which clearly imposes a public interest requirement as a precondition to designating more than one ETC in any rural service area. These provisions mandating an additional public interest test in rural service areas are intended to recognize that in such areas, because the rural carrier faces smaller economies and higher costs, it is more difficult to maintain universal service. They reflect a concern on the part of our Congress that designating more than one ETC in rural service areas, with the resulting sharing of any available universal service funding, could be counterproductive

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[1] NTTA Comments, *Petition of Smith Bagley Inc. for Designation as an Eligible Telecommunications Carrier*, CC Docket 96-45 (June 28, 1999) at p. 4, note 11. NTTA is an association of tribally owned telecommunications service providers and organizations, including Cheyenne River Sioux Tribe Authority, Fort Mojave Telecommunications Inc., Gila River Telecommunications Inc., the Hopi Tribe, the Navajo Nation, San Carlos Apache Telecommunications Utility Authority Inc., and Tohono O'odam Utility Authority.

to preserving and advancing universal service. Any rule modifications adopted through this proceeding should be consistent with the intent of the Section 214(e)(2) provisions and not in any way diminish the additional public interest criteria applicable to ETC designations in rural service areas.

In reviewing the various proposals noticed for comment, the Commission must consider both the potential positive and negative impacts. The overall impact of each proposal should be evaluated and it must be recognized that some of the proposals may negatively impact existing ETCs serving tribal lands. Proposals should be evaluated to determine whether, if implemented, they would jeopardize further facility deployment by existing ETCs, and ultimately, make it even more difficult to ensure universal service in tribal areas.

The answer to improving the level of telephone subscribership on tribal lands is not artificially supporting competition in service areas that either lack a sufficient subscriber base or for other reasons are too costly to serve to economically support more than one carrier. As indicated above, South Dakota's rural telephone companies have already made substantial investments in providing service to subscribers on tribal lands. If this process leads to subsidized competitive ventures into tribal areas, the investments already made by existing ETCs will be at risk and the level of service throughout these areas will likely decline, not improve.

III. THE COMMISSION DOES NOT HAVE JURISDICTION TO DESIGNATE TERRESTRIAL WIRELESS OR SATELLITE CARRIERS AS ELIGIBLE TELECOMMUNICATIONS CARRIERS REGARDLESS OF WHETHER OR NOT THEY ARE PROVIDING SERVICE ON TRIBAL LANDS.

In paragraph 77 of the FNPR, the Commission seeks comment identifying situations in which carriers providing telephone exchange and exchange access services to areas other than tribal lands are not subject to state commission jurisdiction and thus must seek ETC designation from the Commission. The Commission then, specifically, asks whether it, rather than state commissions, has the jurisdiction to designate terrestrial wireless or satellite carriers as ETCs.

In response, SDITC first wonders why this question is raised in the context of this proceeding which by its very title has a much narrower purpose related to subscribership in unserved and underserved areas, including tribal and insular areas. Addressing this question would certainly not appear to be necessary to accomplish what seems to be the objectives of this process.

As to the merits of the question asked, SDITC does not believe there is any support in the federal law for exclusive Commission jurisdiction to designate either wireless carriers or satellite providers as ETCs, regardless of whether a state commission, under its state statutes, has been granted sufficient ETC designation authority. There is no basis to assume that in all cases, the FCC and not the states should designate wireless and/or satellite carriers. No provisions in the federal law offer support for any finding of exclusive FCC jurisdiction.

The provisions of 47 U.S.C. § 214(e)(6), as the Commission points out in its FNPR, are only intended to cover such situations where a state commission lacks jurisdiction over a carrier.[2] Further, the legislative history regarding these provisions, as indicated by the Commission, makes it clear that nothing in the pertinent bill was intended to "expand or restrict the existing jurisdiction of State commissions over any common carrier or provider in any particular situation."[3] As the Rural Telephone Coalition ("RTC") has noted in recent comments submitted to the Commission, Section 214(e)(6) and its related provisions were added as a technical

[2] 47 U.S.C. § 214(e)(6) provides as follows: "Common carriers not subject to state commission jurisdiction. In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest."

correction of the Telecommunications Act of 1996 because the original language in Section 214(e) did not account for the fact that state commissions in a few states have no jurisdiction over certain carriers. . . . It was not meant to expand the powers of the FCC or curtail the ETC designation jurisdiction of the states."[4] *Emphasis added.* Clearly, the provisions of Section 214(e)(6) cannot reasonably be interpreted to supplant the jurisdiction of states in all cases to designate wireless and/or satellite carriers as ETCs.

The FNPR suggests that the FCC may invoke the provisions of Section 214(e)(6) based on the provisions of Section 332(c)(3) of the Federal Act, which preempt certain state regulation of CMRS providers.[5] Whether or not a particular state commission has the requisite authority to act on an ETC petition from a wireless carrier is not determined by the provisions of Section 332(c)(3), but generally depends on whether that commission's state statutes confer the necessary authority. The provisions of Section 332(c)(3) do not speak at all to ETC designations and only preempt state authority to regulate the "entry or rates" of CMRS providers. The process of designating carriers as ETCs for purposes of receiving federal universal service support cannot fairly be classified as "rate or entry" regulation. Instead, the process seems to fall squarely in the category of regulating "other terms and conditions" which under Section

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[3] See Colloquy between Representatives Thune and Bliley, 143 Cong. Rec. H10807-02, H10809 (Nov. 13, 1997).

[4] See Comments of the Rural Telephone Coalition, *In the Matter of Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier and for Related Waivers to Provide Services Eligible for Universal Service Support to Crow Reservation, Montana*, CC Docket No. 96-45, DA 99-1847, filing dated October 12, 1999, pp. 15-17.

[5] Section 47 U.S.C. § 332(c)(3) provides in pertinent part: "State Preemption. --(a) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile servc9es (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates."

332(c)(3) is expressly reserved to the states. Furthermore, to the extent that a wireless carrier is providing telephone exchange or exchange access services through a "fixed" wireless type service, it is not within the plain language of the state preemption for commercial "mobile" service found in Section 332(c)(3).[6]

The Commission may not properly assume authority to designate wireless or satellite carriers as ETCs pursuant to 47 U.S.C. § 214(e)(6), based on a finding that states are preempted from making any ETC designations of wireless carriers pursuant to 47 U.S.C. § 332(c)(3). Whether a state commission has jurisdiction to designate wireless carriers as ETCs must be determined by looking to state law. In South Dakota, the state law expressly grants the South Dakota Public Utilities Commission ("SDPUC") authority to make ETC designations regardless of whether the carrier is a wireless or landline provider. South Dakota Codified Law § 49-31-78 gives the SDPUC specific authority to designate any "common carrier as an eligible telecommunications carrier for a service area designated by the commission [SDPUC] . . .." A "common carrier" under South Dakota law is defined as "anyone who offers telecommunications services to the public."[7] "Telecommunications service" includes "the transmission of signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio, lightwaves, electromagnetic means or other similar means."[8] The SDPUC has already taken action, based on these provisions in South Dakota statute, addressing a petition for ETC designation submitted by the Western Wireless Corporation.[9]

In situations like that in South Dakota, where the state commission is acting under authority clearly provided by state statute, there is no support for any FCC assumption of exclusive jurisdiction to designate wireless or satellite providers of telephone exchange or

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[6] Id. at pp. 11, 12.
[7] South Dakota Codified Laws ("SDCL") § 49-31-1(6).
[8] SDCL §49-31-1(27).

exchange access services. The provisions of 47 U.S.C. § 214(e)(2) are intended to give the primary responsibility for designating ETCs to state commissions and not the FCC. The intended effect of these provisions should not be skirted through any stretched interpretation of either Section 214(e)(6) or 332(c)(3) of the Federal Act

IV. THE DEFINITION OF "UNSERVED AREA" FOR PURPOSES OF IMPLEMENTING 47 U.S.C. § 214(E)(3) MUST BE MORE SPECIFIC.

Within the FNPR, the Commission also addresses how it should implement the provisions of Section 214(e)(3) of the Federal Act. These provisions allow the Commission, with respect to interstate services, and state commissions, with respect to intrastate services, to address "unserved areas" by ordering common carriers to provide service in such areas. For purposes of determining when an allegedly unserved community is eligible for relief under Section 214(e)(3), the Commission proposes defining an "unserved area" as "any area in which facilities would need to be deployed in order for its residents to receive each of the services designated for support by the universal service support mechanisms."

SDITC believes that this definition is too vague because it would permit the Commission to invoke authority under Section 214(e)(3) in almost any instance, even where a single customer may not be receiving service from the LEC within a time period that he or she perceives as reasonable. Any definition adopted should somehow take into account whether the existing LEC has facilities in the immediate area and is able to extend service to the customer within a reasonable period of time. Simply stating that an "unserved area" includes any area where no facilities are deployed leaves the definition far too broad to draw any reasonable parameters around the application of Section 214(e)(3). A literal interpretation of the definition offered would mean that the Commission could intervene any time there exists an unserved customer

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[9] *In the Matter of the Filing by GCC License Corporation for Designation as an Eligible Telecommunications Carrier*, SDPUC Docket TC98-146, Findings of Fact and Conclusions of

within an already established service area. Revising the proposed definition so that Section 214(e)(3) is applied on a more limited basis is particularly important because carriers ordered to provide service under such section also appear to be eligible for ETC designation.[10] If the action permitted under Section 214(e)(3) is not confined to more limited circumstances, carriers may attempt to obtain ETC status without actually offering or providing all of the federally supported services throughout an existing service area. Carriers may view the process allowed for under Section 214(e)(3) as a means of limiting their service offerings and avoiding the ETC requirements established in Sections 214(e)(1) and 214(e)(3) of the Federal Act, including the public interest standard that applies to multiple ETC designations in rural service areas.

The Commission has declined to impose any minimum size requirements on the number of potential subscribers needed to invoke the authority of Section 214(e)(3) based on language in that Section referencing an unserved community or "any portion thereof." For the same concerns expressed above, SDITC does not believe the words "any portion thereof" should be interpreted to mean that FCC action is permitted under Section 214(e)(3), even in those situations where only very few customers or a single customer is involved. Most state commissions engage in some degree of regulation over the provisioning of basic local exchange services and would have the ability to ensure that these limited service problems are adequately addressed by some carrier in their state.

V. EXISTING ETCS MUST BE ASKED PRIOR TO ANY DETERMINATION THAT THERE IS NO CARRIER WILLING TO PROVIDE SERVICE.

The Commission seeks comment regarding the meaning of the phrase "no carrier will provide" the federally supported services. A determination as to whether an existing carrier is

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Law; Notice of Entry of Order dated May 19, 1999.

[10] The last sentence of Section 214(e)(3) states that "[a]ny carrier or carriers ordered to provide such service under this paragraph shall meet the requirements of paragraph (1) and shall be designated as an eligible telecommunications carrier for that community or portion thereof."

willing to provide the services supported by the federal universal service mechanisms is also necessary before the Commission or State commissions can, pursuant to 47 U.S.C. § 214(e)(3), order any carrier to provide telecommunications services within an unserved area.

SDITC agrees with the Commission that the phrase must mean something more than that no common carrier is, in fact, providing the supported services. SDITC also agrees that some process for asking common carriers to provide the required services should be followed before any determination is made pursuant to Section 214(e)(3), that no common carrier will provide the services. Regarding which carriers should be asked in this process, SDITC would only note that any carrier designated as an ETC within an existing service area which includes or lies adjacent to the alleged unserved area should be asked and given a fair opportunity to respond. This will ensure, before any proceeding is initiated under Section 214(e)(3), that existing ETCs are aware of any unserved areas or customers and have been given a reasonable opportunity to provide the services requested.

It is also important, as part of any unserved area inquiry pursuant to Section 214(e)(3), that the Commission inquire into the reasons why services are not being provided within an alleged unserved area. If, for example, an existing ETC is not providing service to individual customers based on poor credit histories or because the customers carry overdue debts with the carrier, these types of circumstances should not lead to any assumption by the Commission of authority to take action under Section 214(e)(3).

VI. THE COMMISSION SHOULD NOT REQUIRE STATES TO ADOPT A COMPETITIVE BIDDING MECHANISM TO DETERMINE WHICH CARRIER WILL BE ORDERED TO SERVE UNSERVED AREAS.

The Commission asks in the FNPR whether it should establish national guidelines by which states must make a determination regarding which carrier is best able to provide the federally supported services in unserved areas. More specifically, a question is raised as to

whether the Commission has authority "to require states to adopt a competitive bidding mechanism to determine which carrier or carriers will be ordered to provide intrastate services in unserved areas."[11]

In response to these questions, SDITC sees no support under the provisions of Section 214(e) or under the universal service provisions found in Section 254 of the Federal Act for any national guidelines in this area or for any determination that the State commissions must use a competitive bidding mechanism to select the carrier that would be ordered to provide service in an unserved area.

Any Commission action of this sort would be inconsistent with the specific language of Section 214(e)(3) which indicates very clearly that Commission determinations thereunder must only relate to interstate services. In pertinent part, it is provided in Section 214(e)(3) that "the Commission, with respect to interstate services, or a State commission with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting community . . .." *Emphasis added.* In light of this language, it is difficult to understand how the Commission believes it might have authority to mandate a competitive bidding process even with respect to intrastate services.

The Commission also has no authority under Section 254 of the Federal Act to impose national guidelines for state decisions under Section 214(e)(3). The U.S. Court of Appeals for the Fifth Circuit in Texas Office of Public Utility Counsel, et. al. vs. FCC, 183 F.3rd 393 (5th Circuit, 1999), reversed a rule of the Commission prohibiting local telephone service providers from disconnecting low-income subscribers finding that the Commission lacked jurisdiction to impose such a rule. The Court also concluded that the Commission exceeded its jurisdiction when it assessed contributions for Section 254(h) "schools and libraries" programs based on combined intrastate interstate revenues of interstate telecommunications providers and when it

[11] FCC 99-204, FNPR at par. 95.

asserted jurisdiction to do the same on behalf of high-cost support. These decisions by the Court were based on its finding that the matters at hand involved intrastate telecommunications services and that the FCC was unable to show that it had unambiguous grant of authority over such matters sufficient to overcome the provisions of 47 U.S.C. § 2(b) which generally prohibit FCC regulation "with respect to . . . charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communications services . . .. The Court specifically indicated that it was not persuaded by FCC claims of authority to take action related to intrastate communications services pursuant to any provisions found in Section 254 of the Federal Act relating to universal service.

The Fifth Circuit Court's reasoning in rejecting FCC jurisdiction is equally applicable to the current proposals suggesting that the Commission may adopt national guidelines or mandate a competitive bidding mechanism with respect to state decisions made pursuant to Section 214(e)(3). There are no provisions in Section 254 that "unambiguously" give the Commission authority to dictate what process states should follow under Section 214(e)(3) in ordering a carrier or carriers to provide intrastate services in unserved areas. To the contrary, the plain language of Section 214(e)(3) indicates that Congress intended that states should control such process for intrastate services. This authority, given states under Section 214(e)(3), should not be restricted by the Commission through any national guidelines or mandated competitive bidding process.

Dated this 14th day of December, 1999.

Richard D. Coit, Executive Director
South Dakota Independent Telephone Coalition
P.O. Box 57 - 320 East Capitol Avenue
Pierre, SD 57501-0057

CERTIFICATE OF SERVICE

I hereby certify that an original and four (4) copies of the foregoing document were sent by Federal Express on the 15th day of December, 1999 to:

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
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Washington, DC 20024-2101

An electronic disk copy was sent by Federal Express on the 15th day of December, 1999 to:

Sheryl Todd
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An electronic disk copy was sent by Federal Express on the 15th day of December, 1999 to:

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